

SB 182 by **Stargel**; (Identical to H 0073) Sexual Offenders

SB 256 by **Garcia**; (Similar to H 0111) Public Records/Forensic Behavioral Health Evaluation

SB 274 by **Simmons (CO-INTRODUCERS) Margolis**; (Compare to H 0043) Inmate Reentry

335118 D S RCS CJ, Simmons Delete everything befor 12/09 04:30 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Smith, Vice Chair

MEETING DATE: Monday, December 9, 2013

TIME: 4:00 —6:00 p.m.

PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Evers, Chair; Senator Smith, Vice Chair; Senators Altman, Bradley, Dean, Gibson, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 182 Stargel (Identical H 73)	Sexual Offenders; Prohibiting certain probationers or community controllees from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating material, regardless of such material's relevance to the offender's deviant behavior pattern, etc. CJ 12/09/2013 Favorable CF JU	Favorable Yeas 6 Nays 0
2	SB 256 Garcia (Similar H 111)	Public Records/Forensic Behavioral Health Evaluation; Creating an exemption from public records requirements for a forensic behavioral health evaluation filed with a court; providing a statement of public necessity, etc. CJ 12/09/2013 Favorable GO RC	Favorable Yeas 6 Nays 0
3	SB 274 Simmons (Compare H 43, H 53)	Inmate Reentry; Requiring the Department of Highway Safety and Motor Vehicles to waive the fee for identification cards issued to certain inmates; requiring the Department of Health to waive fees for certain inmates receiving a copy of a birth certificate; requiring the Department of Corrections to work with other agencies to procure the necessary documents for certain inmates to acquire an identification card before release; encouraging the department to operate and maintain faith- and character-based institutions that serve both male and female inmates at their respective institutions, etc. CJ 12/09/2013 Fav/CS TR ATD AP	Fav/CS Yeas 6 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 182

INTRODUCER: Senator Stargel

SUBJECT: Sexual Offenders

DATE: November 22, 2013

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Clodfelter	Cannon	CJ	Favorable
2. _____	_____	CF	_____
3. _____	_____	JU	_____

I. Summary:

SB 182 amends s. 948.30(7)(g), F.S., which is a standard condition of community supervision prohibiting certain sex offenders from viewing, accessing, owning, or possessing obscene, pornographic, or sexually stimulating material. The bill removes a phrase that prohibits the material only if it is relevant to the offender's deviant behavior pattern.

The bill is likely to result in an increase in the number of alleged violations of community supervision for possessing prohibited materials, but the potential fiscal impact of the bill has not been determined.

II. Present Situation:

Probation¹ and community control² are forms of community supervision that may be imposed as a sentence for a person who is found guilty or who enters a plea of guilty or nolo contendere to a criminal offense. Community supervision may be ordered either as an alternative to prison or following a period of incarceration as part of a split sentence.

The Department of Corrections supervises all persons who are sentenced to community supervision by the circuit court. Section 948.03, F.S., provides a list of standard conditions of probation and s. 948.101, F.S., provides a list of standard conditions of community control. The court also has the discretion to order special conditions in particular cases.

¹ "Probation" is defined as a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03, F.S. Section 948.001(5), F.S.

² "Community control" is defined as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of an offender is restricted within the community, home, or noninstitutional residential placement and specific sanctions are imposed and enforced. Section 948.001(3), F.S.

Section 948.30, F.S., sets forth additional standard conditions of probation and community control that must be ordered for any offender who is sentenced to community supervision for designated sexual offenses.³ Section 948.30(1)(g), F.S., prohibits the offender from “viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender’s deviant behavior pattern.”⁴

In *Kasischke v. State*, 991 So.2d 803 (Fla. 2008), the Florida Supreme Court held that viewing, owning, or possessing any type of obscene, pornographic, or sexually stimulating visual or auditory material is not a violation of probation unless the state establishes that the material is “relevant to the offender’s deviant behavior pattern.” This resolved a conflict among lower appellate courts as to whether the relevance requirement applies to all materials or only certain types of materials. In reaching its decision, the Supreme Court found that the wording of the statute is ambiguous and that the Legislature’s intent could not be determined by examining the statute’s history. Therefore, the Court applied the rule of lenity to interpret the statute in favor of offenders who are subject to the prohibition.

The *Kasischke* decision creates uniformity in the courts’ interpretation of the requirement to prove relevance when a violation of s. 948.30(1)(g), F.S., is alleged. However, the Court’s application of the rule of lenity due to the statute’s ambiguity may not reflect the Legislature’s intent. This intent could be clarified by an amendment to the statute.

III. Effect of Proposed Changes:

The bill amends s. 948.30(7)(g), F.S., to remove the phrase “that are relevant to the offender’s deviant behavior pattern.” This would clarify that the standard condition of community supervision prohibits viewing, owning, or possessing any type of obscene, pornographic, or sexually stimulating visual or auditory material.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³ The designated offenses are: chapter 794, F.S. (sexual battery); s. 800.04, F.S., (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age); s. 827.071, F.S., (using a child in a sexual performance or promoting sexual performance by a child); s. 847.0135(5), F.S., (computer pornography, computer offenses against children, and traveling to meet a minor for sexual purposes); and s. 847.0145, F.S., (selling or buying of minors for sexual purposes).

⁴ The statute includes an exception for the prohibited materials if “otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program.” There are no reported opinions of cases in which this exception was raised as a defense.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The prohibition against viewing, accessing, owning, or possessing pornography is susceptible to constitutional challenge. Federal courts and courts in other states are split on whether the term “pornography” is too vague to give notice of what is prohibited.⁵ Even though the reference to pornography was in the statute even before the relevance clause was added in 1997, Florida courts have not been properly presented with the question of whether it is impermissibly vague.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Depending upon the compliance of offenders with the expanded prohibition, the bill could result in more prosecutions for violations of this condition of community supervision. However, removing the requirement for the state to prove that the material is “relevant to the offender’s deviant behavior pattern” would also relieve the need to present expert testimony on that element. The Criminal Justice Impact Conference has not yet determined the bill’s potential fiscal impact on the prison population.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The standard condition of conditional release in s. 947.1405(7)(a)7., F.S., includes the same “relevant to the offender’s deviant behavior pattern” language that the court found to be ambiguous in the statute amended by this bill.

VIII. Statutes Affected:

This bill substantially amends section 948.30 of the Florida Statutes.

⁵ See discussion in *Hostetter v. State*, 82 So.3d 1217 (Fla. 1st Dist. 2012), footnote 2.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Stargel

15-00311-14

2014182__

A bill to be entitled

An act relating to sexual offenders; amending s. 948.30, F.S.; prohibiting certain probationers or community controllees from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating material, regardless of such material's relevance to the offender's deviant behavior pattern; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (g) of subsection (1) of section 948.30, Florida Statutes, is amended to read:

948.30 Additional terms and conditions of probation or community control for certain sex offenses.—Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(1) Effective for probationers or community controllees whose crime was committed on or after October 1, 1995, and who are placed under supervision for violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, the court must impose the following conditions in addition to all other standard and special conditions imposed:

(g) Unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program, a prohibition on viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

15-00311-14

2014182__

visual or auditory material, including telephone, electronic media, computer programs, or computer services ~~that are relevant to the offender's deviant behavior pattern.~~

Section 2. This act shall take effect July 1, 2014.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: November 15, 2013

I respectfully request that **Senate Bill #182**, relating to Sexual Offenders, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten checkmark is located to the right of the list of options.

A handwritten signature in cursive script that reads "Kelli Stargel".

Senator Stargel
Florida Senate, District 15

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 256

INTRODUCER: Senator Garcia

SUBJECT: Public Records/Forensic Behavioral Health Evaluation

DATE: December 2, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 256 makes forensic behavioral health evaluations filed with the court pursuant to ch. 916, F.S., confidential and exempt from public records disclosure requirements.

The bill provides a statement of public necessity for the exemption as required by the Florida Constitution.

Because the bill creates new public records exemptions, the bill requires a two-thirds vote of each house of the Legislature for passage.

II. Present Situation:

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ guarantees every person's right to inspect and

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Chapter 119, F.S.

copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵

Only the Legislature may create an exemption to public records requirements.⁶ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁷ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions⁸ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.⁹

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁰ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹¹ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹²

⁴ Section 119.011(12), F.S., defines “public records” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.” The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵ Section 119.07(1)(a), F.S.

⁶ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion* 85-62, August 1, 1985).

⁷ FLA. CONST., art. I, s. 24(c).

⁸ The bill may, however, contain multiple exemptions that relate to one subject.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹¹ Section 119.15(3), F.S.

¹² Section 119.15(6)(b), F.S.

Forensic Mental Health¹³

Forensic Services

Chapter 916, F.S., addresses the treatment and adjudication of individuals who have been charged with felonies and found incompetent to proceed to trial due to mental illness, intellectual disability, or autism, or who are acquitted by reason of insanity.

Department of Children and Family Services

Part II of ch. 916, F.S., relates to forensic services for persons who are mentally ill and describes the criteria and procedures for the examination, involuntary commitment, and adjudication of persons who are incompetent to proceed to trial due to mental illness or who have been adjudicated not guilty by reason of insanity. Persons committed under ch. 916, F.S., are committed to the custody of the Department of Children and Family Services (DCF).

Section 916.12(3), F.S., authorizes the court to appoint experts to evaluate a criminal defendant's mental condition. In determining whether a defendant is competent to proceed, the examining expert must provide a report to the court regarding the defendant's capacity to appreciate the charges or allegations against him, appreciate the range and nature of possible penalties, understand the adversarial nature of the legal process, consult with counsel, behave appropriately in court, and testify relevantly. A defendant must be evaluated by at least two experts prior to being involuntarily committed.¹⁴ A defendant charged with a felony who is found incompetent to proceed may be involuntarily committed if the court finds by clear and convincing evidence: (1) that the defendant is mentally ill; (2) all available, least restrictive alternatives are inadequate; and (3) there is a substantial probability that the mental illness will respond to treatment and that the defendant will be restored to competency.¹⁵

DCF provides mental health assessment, evaluation, and treatment of individuals who are committed following adjudication as incompetent to proceed or not guilty by reason of insanity. These individuals are charged with a felony offense and must be admitted to a treatment facility within 15 days of the department's receipt of the commitment packet from the court.¹⁶

Agency for Persons with Disabilities

The Agency for Persons with Disabilities (APD) provides forensic services to defendants charged with a felony who have been found incompetent to proceed due to intellectual disability or autism. Defendants with intellectual disability or autism must be evaluated by at least one expert with expertise in evaluating persons with intellectual disability or autism in order to evaluate the mental condition of the defendant.¹⁷ A defendant is considered incompetent to proceed if the expert finds that the defendant:

- Meets the definition of intellectual disability or autism;

¹³ Much of the information included in this portion of the analysis is from the Interim Report by the Senate Committee on Children, Families, and Elder Affairs, *Forensic Hospital Diversion Pilot Program* (Oct. 2010). The report is available at <http://www.flsenate.gov/Committees/InterimReports/2011/2011-106cf.pdf> (last visited March 12, 2013).

¹⁴ s. 916.12(2), F.S.

¹⁵ s. 916.13(1), F.S. *See also*, s. 916.302, F.S.

¹⁶ *See* s. 916.107(1)(a), F.S.

¹⁷ s. 916.301, F.S.

- Does not have the sufficient present ability to consult with his or her attorney with a reasonable degree of rational understanding; or
- Has no rational and factual understanding of the proceedings.¹⁸

If the expert finds that the defendant is incompetent to proceed due to the defendant's intellectual disability or autism, the expert must prepare a report for the court recommending training for the defendant in order to attain competency.¹⁹ Individuals charged with a felony and found incompetent to proceed due to intellectual disability or autism are committed to APD for appropriate training.²⁰ In certain circumstances, the court may order the conditional release of a defendant found incompetent to proceed due to intellectual disability or autism based on an approved plan for providing community-based training.²¹

Restoration of Competency

Competency restoration is designed to help defendants meaningfully participate in their own defense. If the court determines that the defendant is a danger to himself or others, it may involuntarily commit the defendant to a secure forensic facility.²² If the court finds that the defendant does not pose a risk to public safety, it may place the defendant on conditional release to receive competency restoration training in the community.²³

A defendant who is committed or placed on conditional release pursuant to ch. 916, F.S., is returned to court periodically for a review and report on his or her condition.²⁴ Generally, a review is conducted:

- No later than 6 months after the date of admission;
- At the end of any extended period of commitment;
- At any time upon the facility administrator's communication to the court that the defendant no longer meets commitment criteria; and
- Upon counsel's Motion for Review having been granted.

Once a defendant is determined to have regained his or her competence to proceed, the court is notified and a hearing is set for the judge to determine the defendant's competency.²⁵ If the court finds the defendant to be competent, the criminal proceeding resumes. If, however, the court finds the defendant incompetent to proceed, the defendant is returned to a forensic facility or community restoration on conditional release until competency is restored.²⁶

¹⁸ s. 916.3012, F.S.

¹⁹ s. 916.3012(4), F.S.

²⁰ s. 916.302, F.S.

²¹ s. 916.304, F.S.

²² s. 916.13, F.S.

²³ s. 916.17, F.S.

²⁴ ss. 916.13(2), 916.15(3) and 916.302(2)(a), F.S. See also s. 985.19(4)(e), (5) and (6), F.S., related to the court's jurisdiction and reporting requirements in juvenile cases.

²⁵ Rule 3.212, Fla.R.Crim.P.

²⁶ *Id.*

Confidentiality of Forensic Behavioral Health Evaluations

According to the Office of the State Courts Administrator, most forensic behavioral health evaluations filed with the court are neither confidential nor exempt under existing law or court rules.²⁷

A court may order records be made confidential on a case-by-case basis; however, only the Legislature may create a new general public records exemption for judicial records.²⁸

III. Effect of Proposed Changes:

The bill creates s. 916.1065, F.S., to make forensic behavioral health evaluations filed with the court pursuant to ch. 916, F.S., confidential and exempt from public records disclosure requirements. The term “forensic behavioral health evaluation” is defined in the bill as meaning:

[A]ny record, including supporting documentation, derived from a competency, substance abuse, psychosexual, psychological, psychiatric, psychosocial, cognitive impairment, sanity, or other mental health evaluation of an individual.²⁹

The bill provides the following statement of public necessity for the exemptions as required by the Florida Constitution:

The Legislature finds that it is a public necessity that forensic behavioral health evaluations filed with the court pursuant to chapter 916, Florida Statutes, be confidential and exempt from disclosure under s. 24(a), Art. I of the State Constitution. The personal health of an individual and the treatment that he or she receives is an intensely private matter. An individual’s forensic behavioral health evaluation should not be made public merely because it is filed with the court. Protecting forensic behavioral health evaluations is necessary to ensure the health care privacy rights of all persons. Making these evaluations confidential and exempt will protect information of a sensitive personal nature, the release of which could cause unwarranted damage to the reputation of an individual. Further, the knowledge that sensitive personal information is subject to disclosure could have a chilling effect on mental health experts who conduct the evaluations for use by the court. Therefore, making these evaluations confidential and exempt allows courts to effectively and efficiently make decisions relating to the competency of individuals who interact with the state courts system.

The bill takes effect July 1, 2014.

²⁷ *Senate Bill 824 (2013) Judicial Impact Statement*, Office of the State Courts Administrator, March 15, 2013 (on file with the Senate Governmental Oversight and Accountability Committee).

²⁸ *In re Amendments to Florida Rule of Judicial Administration 2.420*, 68 So.3d 228 (Fla. 2011).

²⁹ The types of records protected by the bill are already afforded confidentiality pursuant to s. 916.107(8), F.S., if they become part of a clinical record. In such cases, release of the records is governed by the provisions of that subsection.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. This bill does not appear to affect county or municipal governments.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, s. 24(c), of the Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for passage of a newly-created public records exemption. Because the bill creates new public records exemptions, the bill requires a two-thirds vote of each house of the Legislature for passage.

Public Necessity Statement

Article I, s. 24(c), of the Florida Constitution requires a public necessity statement for a newly created public records exemption. Because this bill creates new public records exemptions, it includes a public necessity statement.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of the State Courts Administrator (OSCA) anticipates that the bill will help to reduce court workload related to disposing of defense motions to protect forensic behavioral health evaluation information records. The bill's effect makes the defense motions unnecessary. OSCA is unable to quantify the fiscal impact resulting from the workload reduction due to the unavailability of data.³⁰

VI. Technical Deficiencies:

None.

³⁰ Office of the State Courts Administrator 2014 Judicial Impact Statement, December 3, 2013. (on file with the Senate Criminal Justice Committee).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 916.1065

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Garcia

38-00335-14

2014256__

A bill to be entitled

An act relating to public records; creating s. 916.1065, F.S.; creating an exemption from public records requirements for a forensic behavioral health evaluation filed with a court; providing a definition for the term "forensic behavioral health evaluation"; providing a statement of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 916.1065, Florida Statutes, is created to read:

916.1065 Confidentiality of forensic behavioral health evaluations.

(1) A forensic behavioral health evaluation filed with the court under this chapter is confidential and exempt from s. 24(a), Art. I of the State Constitution.

(2) As used in this section, the term "forensic behavioral health evaluation" means any record, including supporting documentation, derived from a competency, substance abuse, psychosexual, psychological, psychiatric, psychosocial, cognitive impairment, sanity, or other mental health evaluation of an individual.

Section 2. The Legislature finds that it is a public necessity that forensic behavioral health evaluations filed with the court pursuant to chapter 916, Florida Statutes, be confidential and exempt from disclosure under s. 24(a), Article I of the State Constitution. The personal health of an

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

38-00335-14

2014256__

individual and any treatment that he or she receives is an intensely private matter. An individual's forensic behavioral health evaluation should not be made public merely because it is filed with the court. Protecting forensic behavioral health evaluations is necessary to ensure the health care privacy rights of all individuals. Making these evaluations confidential and exempt will protect information of a sensitive personal nature, the release of which could cause unwarranted damage to the reputation of an individual. Further, the knowledge that sensitive personal information is subject to disclosure could have a chilling effect on mental health experts who conduct the evaluations for use by the court. Therefore, making these evaluations confidential and exempt allows courts to effectively and efficiently make decisions relating to the competency of individuals who interact with the state courts system.

Section 3. This act shall take effect July 1, 2014.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Communications, Energy, and Public Utilities, Vice
Chair
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and Human
Services
Transportation
Health Policy
Agriculture
Transportation

JOINT COMMITTEE:

Joint Committee on Administrative Procedures, Chair

SENATOR RENE GARCIA

38th District

November 4, 2013

The Honorable Greg Evers
Chair, Criminal Justice Committee
308 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

This letter should serve as a request to have my bill SB 256 Public Records/Forensic Behavioral Health Evaluation heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "René García".

State Senator René García
District 38
RG:dm

CC: Amanda Cannon, Staff Director

REPLY TO:

- ☐ 1490 West 68 St., Suite 201 Hialeah, FL 33014 (305) 364-3100
- ☐ 310 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/9/13

Meeting Date

Topic Behavioral Health public records bill Bill Number SB 256
Name Eric Maclure (if applicable)
Job Title Deputy State Courts Administrator Amendment Barcode _____ (if applicable)
Address 500 South Dural St. Phone 850-922-5692
Tallahassee, FL 32999 E-mail macluree@flcourts.org
City State Zip
Speaking: ☒ For ☐ Against ☐ Information
Representing State Courts System
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-9-13

Meeting Date

Topic Forensic Behavioral Health Records

Bill Number SB 256
(if applicable)

Name MARK FONTAINE

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 2868 Mahan Drive
Street

Phone 878-2196

Tallahassee FL 32308
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Alcohol & Drug Abuse Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

December 9, 2013

Meeting Date

Topic _____

Bill Number 256
(if applicable)

Name Honorable Bob Dillinger

Amendment Barcode _____
(if applicable)

Job Title Public Defender

Address 14250 49th Street North

Phone 727-464-6866

Street

Clearwater

Florida

33762

City

State

Zip

E-mail bdilling@weararethehope.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Communications, Energy, and Public Utilities, Vice
Chair
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and Human
Services
Transportation
Health Policy
Agriculture
Transportation

JOINT COMMITTEE:

Joint Committee on Administrative Procedures

SENATOR RENE GARCIA

38th District

December 9, 2013

The Honorable Greg Evers
Chair, Criminal Justice Committee
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

Due to a scheduling conflict, I will not be able to present my bill *SB 256 Forensic Behavioral Health Evaluation*, at your committee meeting on Monday, December 9, 2013. I ask that you allow a member of my staff *David Marin* to present the bill on my behalf. If there is any other information needed please do not hesitate to contact me.
Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "René García".

State Senator René García
District 38
RG:dm

CC: Amanda Cannon, Staff Director

REPLY TO:

- ☐ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- ☐ 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 274

INTRODUCER: Criminal Justice Committee and Senator Simmons

SUBJECT: Inmate Reentry

DATE: December 10, 2013

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Clodfelter	Cannon	CJ	Fav/CS
2. _____	_____	TR	_____
3. _____	_____	ATD	_____
4. _____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 274 requires the Department of Corrections (DOC) to work with the Department of Health (DOH) and the Department of Highway Safety and Motor Vehicles (DHSMV) to ensure that every Florida-born inmate who leaves prison has a state identification card and a certified copy of their birth certificate at no cost to the inmate.

In the area of faith and character based programs, the bill encourages DOC to maintain faith and character-based institutions for both male and female inmates. It also requires peer-to-peer programs, such as Alcoholics Anonymous and literacy instruction, to be offered at faith and character-based institutions.

II. Present Situation:

Reentry Programs for Nonviolent Offenders

Inmates who enter prison often have shortcomings in one or more areas of education, employment skills, substance abuse-free living, and mental health that contributed to their current situation. For example, 24.6 percent of the inmates admitted to prison during Fiscal Year 2011-2012 had been convicted of a drug crime¹ and almost two-thirds of inmates who enter

¹ Fla. Dep't of Corrections, *Inmate Admissions*, http://www.dc.state.fl.us/pub/annual/1112/stats/im_admis.html (last visited December 3, 2013).

prison for any crime also have a substance abuse problem.² Unless addressed, these deficiencies are likely to contribute to re-offending and a return to prison.

In the past decade the executive and legislative branches of state government have acknowledged the importance of reentry services and post-release planning and transition. In May 2007, DOC revised its mission statement to include assisting offenders with reentry into society in order to reduce recidivism and to lower crime rates. The goal was to bring down the three-year post-release recidivism rate from 32 percent to 20 percent by 2012. DOC reports that the three-year post-release recidivism rate for inmates released in 2009 was 27 percent.³

Faith- and Character-based Programs

In 1999, DOC opened its first faith-based dormitory in cooperation with Kairos Horizon at Tomoka Correctional Institution. Several other faith-based dormitories were opened around the state beginning in 2000. In 2001, the Legislature required DOC to have six additional faith-based dormitory programs fully operational by June 1, 2002.⁴ In 2003, Lawtey Correctional Institution became the first faith-based institution. DOC currently has faith and character-based programs at 17 institutions:⁵

Faith and Character Based Residential Facilities		
Location	Capacity	Gender
<i>Dormitory-based</i>		
Tomoka C.I.	228	Male
Polk C.I.	128	Male
Lowell Annex	86	Female
Gulf – Annex	128	Male
Everglades C.I.	128	Male
Lancaster C.I.	62	Male youthful offenders
Union C.I.	96	Male over 50
NWFRC	144	Male
Jackson CI	112	Male
Columbia Annex	120	Male
Marion CI	130	Male
Desoto CI	143	Male
Okeechobee CI	172	Male
<i>Total Dormitories</i>	1677	
<i>Institution-wide</i>		
Hernando CI	467	Female
Lawtey C.I.	876	Male

² Office of Program Policy Analysis and Governmental Accountability (OPPAGA), *Corrections Rehabilitative Programs Effective, But Serve Only a Portion of the Eligible Population*, Report No. 07-14 (February 2007), p. 6.

³ Department of Corrections, “2012 Florida Prison Recidivism Study – Releases from 2004 to 2012,” p. 9, <http://www.dc.state.fl.us/pub/recidivism/2012/ratesovertime.html> (last visited on December 3, 2013).

⁴ Section 13, Chapter 2001-110, Laws of Florida.

⁵ “Faith- and Character-Based Residential Programs,” <http://www.dc.state.fl.us/oth/faith/index.html> (last visited on December 3, 2013).

Wakulla C.I. & WC	1999	Male
Wakulla Annex	1481	Male
Total Prison	4823	
TOTAL CAPACITY	6500	

OPPAGA's 2009 review of faith and character-based programs found that institution-wide programs had a positive effect on inmate institutional adjustment and security, and a positive but modest effect on reducing recidivism. Dormitory-based programs also had a positive effect on institutional adjustment and security, but had no effect on recidivism.⁶ There are many factors that affect the institution to which an inmate can be assigned, including the need for health services. DOC notes that operating dormitory-based programs allows it to maintain system-wide flexibility in assigning inmates to institutions.⁷

Section 948.803(6), F.S., requires faith and character-based institutions to allow peer-to-peer programming programs, such as Alcoholics Anonymous and literacy instruction. DOC indicates that it actively encourages peer-to-peer programming.⁸

Identification Cards and Social Security Cards

Inmates are issued an identification card during the reception process and are required to display it at all times while incarcerated. This serves DOC's need to account for each inmate while incarcerated. The inmate may retain the identification card for use when released from prison, but it has limited usefulness outside the prison setting. The inmate ID card carries an inherent stigma and is not always accepted as identification. Any other identification card that the inmate had when incarcerated, such as a driver's license or social security card, is returned to them upon release. However, many inmates do not bring identification with them when they enter prison, and identification left with someone else is often either lost or expired by the time they are released. Without proper identification and documentation upon release, inmates may be unable to acquire public assistance, legitimate transportation or employment, and housing.⁹

Section 322.051, F.S., provides for issuance of an official state identification card by the DHSMV. Issuance of a state identification card requires presentation of documentation that is sufficient to prove the applicant's identity in accordance with the state statute and the federal REAL ID Act. Many released inmates do not have this required documentation, and very few have it available while they are incarcerated.

DOC reports that it works in cooperation with DHSMV and the Department of Health's Bureau of Vital Statistics to obtain identification cards for inmates prior to release.¹⁰ DOC obtains birth certificates from the DOH and works with DHSMV for dispatch of the FLOWmobile ("Florida

⁶ OPPAGA Report No. 09-38 (October 2009), "Faith- and Character-Based Prison Initiative Yields Institutional Benefits; Effect on Recidivism Modest," pp. 3-6.

⁷ Department of Corrections' Analysis of Senate Bill 274, pp. 3-4.

⁸ Department of Corrections' Analysis of Senate Bill 274, p. 4.

⁹ See Office of Program Policy Analysis and Governmental Accountability (OPPAGA), *Department of Corrections Should Maximize Use of Best Practice in Inmate Rehabilitation Efforts*, Report No. 09-44 (December 2009), pages 5-6.

¹⁰ Department of Corrections Analysis of Senate Bill 1032 (2013), p. 9.

Licensing On Wheels” vehicle) to department facilities. The program has resulted in issuance of 2480 identification cards to inmates since it began in January 2011.¹¹

In addition to its efforts to obtain identification cards, DOC has a Memorandum of Understanding with the Social Security Administration to expedite the process for inmates to obtain replacement Social Security cards.¹²

The inmate must pay \$9 to obtain a Florida birth certificate and \$25 to obtain an identification card. The cost and difficulty of obtaining an out-of-state birth certificate varies from state to state, ranging from \$5 in some states to \$30 in Connecticut and New York.

III. Effect of Proposed Changes:

Identification Cards

The bill requires DOC to provide every Florida-born inmate with a certified copy of their birth certificate and a state identification card before release from prison. To obtain a birth certificate, DOC must submit a photo and specified personal information of all Florida-born inmates in its custody to DOH. An inmate’s failure to cooperate in providing the photograph and the required information may result in disciplinary action. DOC is also required to assist all inmates with obtaining a social security card before release if needed.

The bill requires DOC to assist inmates born outside of Florida with completing forms needed to apply for a social security card, driver license, or state identification card. DOC must also provide the inmate with the address of the appropriate agency near his or her expected release address where an identification card can be obtained.

The bill amends s. 382.0255, F.S., to require DOH to waive all fees for an inmate to acquire a certified copy of his or her birth certification through the new process created in the bill. It also amends s. 322.051, F.S., to require DHSMV to issue a state identification for no charge to an inmate who obtains the card through the new process created in the bill.

DOC is not required to provide a birth certificate and state identification card to an inmate who:

- Already has a valid driver license or state identification card;
- Has an active detainer, unless cancellation of the detainer is likely or if the incarceration for which the detainer was issued will be for less than twelve months;
- Is released due to emergency release or conditional medical release;
- Is not in DOC’s physical custody at or within 180 days before release; or
- Is subject to sex offender residency restrictions and does not have a qualifying address.

The bill requires DOC to make an annual report providing the number of inmates who were released with or without identification cards during the previous year, identifying any

¹¹ Department of Highway Safety and Motor Vehicles Analysis of Senate Bill 274, p. 2.

¹² Department of Corrections’ Analysis of Senate Bill 274, pp. 3.

impediments to implementation of the identification card program, and recommending any needed improvements.

Faith and Character-Based Programs

The bill amends s. 944.803, F.S., to encourage DOC to maintain faith and character-based institutions to serve both male and female inmates. There are currently three faith and character based institutions for males and one for females. The bill also requires faith and character-based institutions to offer peer-to-peer programs such as Alcoholics Anonymous and literacy instruction.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill does not appear to have any fiscal impact on the private sector.

C. Government Sector Impact:

The bill would have an indeterminate negative fiscal impact on state revenues due to the waiver of the fee for a state identification card¹³ and the waiver of the charge for a certified copy of a Florida birth certificate.¹⁴ DHSMV estimates the following potential fiscal impact based upon issuance of a license or identification card to every released Florida-born inmate and ten percent of released inmates who were born out of state:

¹³ Section 322.21(f), F.S., directs that the \$25 fee for issuing a state identification card goes to the General Revenue Fund. For renewals, \$6 of the fee goes to the Highway Safety Operating Trust Fund and \$19 to the General Revenue Fund.

¹⁴ Section 382.0255(4), F.S., provides that fees charged for issuing a copy of a birth certificate are deposited into a DOH trust fund.

Potential Fiscal Impact of Waiving Fee for ID Cards (Loss of Revenue by Fund)				
	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Inmates	21,104	21,368	21,533	21,628
General Revenue	(455,752)	(461,453)	(465,017)	(467,068)
Highway Safety Operating Trust Fund	(71,848)	(18,645)	(18,789)	(18,872)
Tax Collector		(54,102)	(54,519)	(54,760)

The Department of Corrections reports that approximately 12,600 inmates who were born out of state are released each year. With the cost of out of state birth certificates, DOC estimates that it would cost approximately \$378,000 to provide birth certificates to all releasees who were born out of state.¹⁵ Based upon approximately 20,000 Florida-born inmates being released each year, waiver of the \$9 fee for a birth certificate would result in loss of an annual reduction of \$180,000 in revenues to the Department of Health.

It should be noted that the estimates given for potential lost revenues and costs are the highest possible. The actual amount of lost revenue is expected to be much less for several reasons, including: (1) many inmates will not receive one or both documents because of the exclusions included in the bill and the logistical difficulties in getting inmates to a DHSMV facility or having an on-site FLOWmobile visit; (2) many inmates would not have obtained either or both documents on their own initiative either before or after release, so the agencies would not have otherwise received fees from those inmates; and (3) many inmates who receive a state identification card will obtain a driver's license after release, so the agencies will still receive fees from them.

In addition to the above costs, DHSMV indicates that its fleet of five FLOWmobiles and crews is not sufficient to process approximately 21,000 identification cards for inmates. It indicates that it could currently process 2000 to 2500 inmates annually, with some growth possible due to increased efficiencies on the part of both DHSMV and DOC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 322.051, 382.0255, 944.605, and 944.803.

¹⁵ Department of Corrections' Analysis of Senate Bill 274, p. 5.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on December 9, 2013:

The CS includes numerous changes in style and organization. However, it is substantively the same as the bill.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



335118

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/09/2013	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (9) of section 322.051, Florida
Statutes, is amended to read:

322.051 Identification cards.—

(9) Notwithstanding any other provision of this section or
s. 322.21 to the contrary, the department shall issue or renew a
card at no charge to a person who presents evidence satisfactory



335118

to the department that he or she is homeless as defined in s.
414.0252(7) or to an inmate receiving a card issued pursuant to
s. 944.605(7).

Section 2. Subsection (3) of section 382.0255, Florida
Statutes, is amended to read:

382.0255 Fees.—

(3) Fees shall be established by rule. However, until rules
are adopted, the fees assessed pursuant to this section shall be
the minimum fees cited. The fees established by rule must be
sufficient to meet the cost of providing the service. All fees
shall be paid by the person requesting the record, are due and
payable at the time services are requested, and are
nonrefundable, except that, when a search is conducted and no
vital record is found, any fees paid for additional certified
copies shall be refunded. The department may waive all or part
of the fees required under this section for any government
entity. The department shall waive all fees required under this
section for a certified copy of a birth certificate issued for
purposes of an inmate acquiring a state identification card
before release pursuant to s. 944.605(7).

Section 3. Subsection (7) is added to section 944.605,
Florida Statutes, to read:

944.605 Inmate release; notification; identification card.—

(7) (a) The department, working in conjunction with the
Department of Health and the Department of Highway Safety and
Motor Vehicles, shall provide every Florida-born inmate with a
certified copy of their birth certificate and a state
identification card before his or her release upon expiration of
the inmate's sentence.



335118

(b) Paragraph (a) does not apply to inmates who:

1. The department determines have a valid driver license or state identification card.

2. Have an active detainer, unless the department determines that cancellation of the detainer is likely or that the incarceration for which the detainer was issued will be less than 12 months in duration.

3. Are released due to an emergency release or a conditional medical release under s. 947.149.

4. Are not in the physical custody of the department at or within 180 days before release.

5. Are subject to sex offender residency restrictions, and who, upon release under such restrictions, do not have a qualifying address.

(c) The department shall assist each inmate in applying for and obtaining a social security card before release if the inmate needs a social security card.

(d) The department, for purposes of assisting the inmate in obtaining a birth certificate, shall submit to the Department of Health on all Florida-born inmates in its custody, the department's inmate photo or digitized photo, and as provided by the inmate his or her date of birth, full name at birth and any subsequent legal name changes, city or county of birth, mother's full name including her maiden surname, and father's full name. Failure of the inmate to cooperate with the department in providing this information may subject the inmate to disciplinary action.

(e) For inmates born outside of this state, the department shall assist the inmate in completing the necessary forms or



335118

69 applications to obtain a social security card, driver license,
70 or state identification card. The department shall also provide
71 the inmate with the location and address of the appropriate
72 licensing authority the inmate will need to obtain a valid
73 identification card in proximity to the inmate's release
74 address.

75 (f) The department shall, as part of its annual report,
76 provide a report that identifies the number of inmates released
77 with and without identification cards, identifies any
78 impediments in the implementation of this subsection, and
79 provides recommendations to improve obtaining release documents
80 and identification cards for all inmates.

81 Section 4. Subsections (2) and (6) of section 944.803,
82 Florida Statutes, are amended to read:

83 944.803 Faith- and character-based programs.—

84 (2) It is the intent of the Legislature that the department
85 expand the faith- and character-based initiative through the use
86 of faith- and character-based institutions. The department is
87 encouraged to phase out the faith-based and self improvement
88 dormitory programs and move toward the goal of only implementing
89 faith- and character-based institutions. The department is also
90 encouraged to dedicate and maintain faith- and character-based
91 institutions that serve both male and female inmates at their
92 respective institutions.

93 (6) Within faith- and character-based institutions of the
94 state correctional system, peer-to-peer programming shall be
95 offered ~~allowed~~, such as Alcoholics Anonymous, literacy
96 instruction, and other activities, ~~when appropriate.~~

97 Section 5. This act shall take effect July 1, 2014.



335118

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to inmate reentry; amending s.
322.051, F.S.; waiving the fee for identification
cards issued to certain inmates; amending s. 382.0255,
F.S.; requiring a waiver of fees for certain inmates
receiving a copy of a birth certificate; amending s.
944.605, F.S.; requiring the Department of Corrections
to work with other agencies in acquiring necessary
documents for certain inmates to acquire an
identification card before release; providing
exceptions; requiring the department to provide
specified assistance to inmates born outside this
state; requiring a report; amending s. 944.803, F.S.;
authorizing the department to operate male and female
faith- and character-based institutions; providing an
effective date.

By Senator Simmons

10-00282-14

2014274__

1 A bill to be entitled
 2 An act relating to inmate reentry; amending s.
 3 322.051, F.S.; requiring the Department of Highway
 4 Safety and Motor Vehicles to waive the fee for
 5 identification cards issued to certain inmates;
 6 amending s. 382.0255, F.S.; requiring the Department
 7 of Health to waive fees for certain inmates receiving
 8 a copy of a birth certificate; amending s. 944.605,
 9 F.S.; requiring the Department of Corrections to work
 10 with other agencies to procure the necessary documents
 11 for certain inmates to acquire an identification card
 12 before release; providing exceptions; requiring the
 13 department to assist inmates born outside this state
 14 in obtaining identification cards; requiring the
 15 department to assist inmates in applying for a social
 16 security card; requiring a report; amending s.
 17 944.803, F.S.; encouraging the department to operate
 18 and maintain faith- and character-based institutions
 19 that serve both male and female inmates at their
 20 respective institutions; providing an effective date.
 21
 22 Be It Enacted by the Legislature of the State of Florida:
 23
 24 Section 1. Subsection (9) of section 322.051, Florida
 25 Statutes, is amended to read:
 26 322.051 Identification cards.—
 27 (9) Notwithstanding any other provision of this section or
 28 s. 322.21 ~~to the contrary~~, the department shall issue or renew a
 29 card at no charge to a person who presents satisfactory evidence

Page 1 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

10-00282-14

2014274__

30 ~~satisfactory~~ to the department that he or she is homeless as
 31 defined in s. 414.0252(7) or to an inmate receiving a card
 32 issued pursuant to s. 944.605(4).
 33 Section 2. Subsection (3) of section 382.0255, Florida
 34 Statutes, is amended to read:
 35 382.0255 Fees.—
 36 (3) Fees shall be established by rule and. ~~However, until~~
 37 ~~rules are adopted, the fees assessed pursuant to this section~~
 38 ~~shall be the minimum fees cited. The fees established by rule~~
 39 ~~must be sufficient to meet the cost of providing the service.~~
 40 However, until rules are adopted, the fees assessed must be the
 41 minimum amount specified in this section.
 42 (a) All fees shall be paid by the person requesting the
 43 record, are due and payable at the time services are requested,
 44 and are nonrefundable, except that, if ~~when~~ a search is
 45 conducted and no vital record is found, any fees paid for
 46 additional certified copies must ~~shall~~ be refunded.
 47 (b) The department may waive all or part of the fees
 48 required under this section for any government entity.
 49 (c) The department shall waive the fees for a certified
 50 copy of a birth certificate which is issued in order to allow an
 51 inmate to acquire a state identification card before release as
 52 provided under s. 944.605(4).
 53 Section 3. Section 944.605, Florida Statutes, is amended to
 54 read:
 55 944.605 Inmate release; notification; identification
 56 cards.—
 57 (1) (a) Within 6 months before the release of an inmate from
 58 the custody of the department ~~of Corrections~~ or a private

Page 2 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

10-00282-14

2014274__

correctional facility by expiration of sentence under s. 944.275, a ~~any~~ release program provided by law, or parole under chapter 947, or as soon as possible if the offender is released earlier than anticipated;

1. The department shall provide notification of the ~~such~~ anticipated release date ~~shall be made known by the department of Corrections~~ to the chief judge of the circuit in which the offender was sentenced, the appropriate state attorney, the original arresting law enforcement agency, the Department of Law Enforcement, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside.

2. The department or the state attorney, whichever is appropriate, shall provide notification of the anticipated release date ~~in addition~~, unless otherwise requested by the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin in the case of a homicide, if the state attorney or the department of Corrections, whichever is appropriate, shall notify such person within 6 months before the inmate's release, or as soon as possible if the offender is released earlier than anticipated, when the name and address of such victim, or the name and address of the parent, guardian, next of kin, or lawful representative of the victim has been furnished to the agency. The state attorney shall provide the latest address documented for the victim, or for the victim's parent, guardian, next of kin, or lawful representative, as applicable, to the sheriff with the other documents required by law for the delivery of inmates to those agencies for service of

10-00282-14

2014274__

sentence.

(b) Upon request, within 30 days after an inmate is approved for community work release, the department shall notify the state attorney, the victim, the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, or the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor ~~shall be notified~~ that the inmate has been approved for community work release.

(c) At least 10 days before the anticipated date of work release, the department shall notify in writing the county law enforcement agency in the county in this state in which the inmate is scheduled to be released.

(d) This section does not imply any repeal or modification of any provision of law relating to notification of victims.

(2) Within 60 days before the anticipated release of an inmate under subsection (1), a digitized photograph of the inmate to be released shall be made by the department ~~of Corrections~~ or a private correctional facility, whichever has custody of the inmate. If a private correctional facility makes the digitized photograph, the this photograph shall be provided to the department ~~of Corrections~~. ~~Additionally,~~ The digitized photograph, whether made by the department ~~of Corrections~~ or a private correctional facility, shall be placed in the inmate's file.

(a) The department ~~of Corrections~~ shall make the digitized photograph available electronically to the Department of Law Enforcement as soon as the ~~digitized~~ photograph is in the department's database. The digitized photograph ~~and~~ must be in a

10-00282-14

2014274__

format that is compatible with the requirements of the Florida Crime Information Center. The department shall provide a copy of the digitized photograph to a local law enforcement agency upon request.

(b) An inmate who refuses to submit to the taking of a digitized photograph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) (a) If an inmate is to be released after having served one or more sentences for a conviction of robbery, sexual battery, home-invasion robbery, or carjacking, or if an inmate to be released has a prior conviction in this state or in another jurisdiction for robbery, sexual battery, home-invasion robbery, or carjacking or similar offense which is noted, in this state or in another jurisdiction, and if such prior conviction information is contained in department records, within 6 months before the discharge of the inmate from the custody of the department the department shall release to the sheriff of the county in which the inmate plans to reside, and, if the inmate plans to reside within a municipality, to the chief of police of that municipality, the following information, which must include, but need not be limited to:

1. Name.
2. Social security number.
3. Date of birth.
4. Race.
5. Sex.
6. Height.
7. Weight.
8. Hair and eye color.

Page 5 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

10-00282-14

2014274__

9. Tattoos or other identifying marks.

10. Fingerprints.

11. A digitized photograph as provided under ~~in~~ subsection (2).

~~The department shall release the information specified in this paragraph within 6 months prior to the discharge of the inmate from the custody of the department.~~

(b) The department may electronically submit the information specified listed in paragraph (a) to the sheriff of the county in which the inmate plans to reside, and, if the inmate plans to reside within a municipality, to the chief of police of that municipality.

(4) The department, in conjunction with the Department of Health and the Department of Highway Safety and Motor Vehicles, shall provide each inmate who is in the custody of the department and who was born in this state with a certified copy of his or her birth certificate and a state identification card before his or her release.

(a) In order to obtain a copy of the inmate's certified birth certificate, the department shall submit all of the following to the Department of Health:

1. A copy of the inmate's photograph or digitized photograph.

2. The inmate's date of birth, full name at birth, and any subsequent legal name changes.

3. The municipality or county where the inmate was born.

4. The inmate's mother's full name, including her maiden surname.

Page 6 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

10-00282-14

2014274__

175 5. The inmate's father's full name.
 176 (b) An inmate who does not cooperate in providing the
 177 photograph or information required under paragraph (a) may be
 178 subject to disciplinary action.
 179 (c) This subsection does not apply to an inmate who:
 180 1. The department determines has a valid driver license or
 181 state identification card;
 182 2. Has an active detainer, unless the department determines
 183 that cancellation of the detainer is likely or that the
 184 incarceration for which the detainer was issued will be less
 185 than 12 months in duration;
 186 3. Is released due to an emergency release or a conditional
 187 medical release under s. 947.149;
 188 4. Is not in the physical custody of the department at or
 189 within 180 days before release; or
 190 5. Is subject to sex offender residency restrictions upon
 191 release and does not have a qualifying address.
 192 (5) The department shall assist each inmate in the custody
 193 of the department who was born outside of this state to obtain
 194 and complete the necessary forms or applications in order to
 195 receive a birth certificate, driver license, or other
 196 identification card issued by the appropriate state.
 197 (6) The department shall assist each inmate in the custody
 198 of the department who needs a social security card to apply for
 199 and obtain a social security card before release from
 200 incarceration.
 201 (7) In its annual report, the department shall identify the
 202 number of inmates released with and without identification cards
 203 during the previous year. The report must identify any

10-00282-14

2014274__

204 impediment to implementing subsections (4)-(6) and provide
 205 recommendations that facilitate obtaining release documents and
 206 identification cards for all inmates.
 207 ~~(4) An inmate who refuses to submit to the taking of a~~
 208 ~~digitized photograph commits a felony of the third degree,~~
 209 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
 210 ~~(5) The department shall, at least 10 days before the~~
 211 ~~anticipated date of release on work release of an inmate, notify~~
 212 ~~in writing the county law enforcement agency in the county in~~
 213 ~~this state in which the inmate is scheduled to be released.~~
 214 ~~(6) Upon request of the victim, the personal representative~~
 215 ~~of the victim, or the state attorney, the department shall~~
 216 ~~notify the requesting person when an inmate has been approved~~
 217 ~~for community work release within 30 days after the date of~~
 218 ~~approval.~~
 219 Section 4. Subsections (2) and (6) of section 944.803,
 220 Florida Statutes, are amended to read:
 221 944.803 Faith- and character-based programs.—
 222 (2) It is the intent of the Legislature that the department
 223 expand the faith- and character-based initiative through the use
 224 of faith- and character-based institutions. The department is
 225 encouraged to phase out ~~the~~ faith-based and self-improvement
 226 ~~self-improvement~~ dormitory programs and move toward the goal of
 227 implementing and maintaining only implementing faith- and
 228 character-based institutions for male and female inmates.
 229 (6) Within faith- and character-based institutions of the
 230 state correctional system, peer-to-peer programming shall be
 231 offered ~~allowed~~, such as Alcoholics Anonymous ~~and~~, literacy
 232 ~~instruction, and other activities, when appropriate.~~

10-00282-14

2014274__

233

Section 5. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: November 20, 2013

✓

I respectfully request that **Senate Bill 274**, relating to Inmate Reentry, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in black ink, appearing to read "David Simmons", is written over a horizontal line.

Senator David Simmons
Florida Senate, District 10

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/9/13

Meeting Date

Topic Inmate Reentry

Bill Number 274
(if applicable)

Name Barney Bishop

Amendment Barcode _____
(if applicable)

Job Title President + CEO

Address 204 South Monroe St., Suite 201
Street

Phone (850) 577-3032

Tallahassee FL 32303
City State Zip

E-mail barney@smartjusticealliance.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

December 9, 2013

Meeting Date

Topic _____

Bill Number 274

(if applicable)

Name Honorable Bob Dillinger

Amendment Barcode _____

(if applicable)

Job Title Public Defender

Address 14250 49th Street North

Street

Phone 727-464-6866

Clearwater

City

Florida

State

33762

Zip

E-mail bdilling@weararethehope.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/9/13

Meeting Date

Topic Inmate Re-Entry Bill Number 274
(if applicable)

Name David Christian Amendment Barcode _____
(if applicable)

Job Title VP of Governmental Affairs

Address 136 South Bronough Street Phone 850-521-1200
Street

Tallahassee FL 32301 E-mail dchristian@flchamber.com
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-9-13

Meeting Date

Topic INMATE REENTRY

Bill Number SB 274
(if applicable)

Name MARK FONTAINE

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 2868 MAHAN Drive
Street

Phone 878-2196

TRUMPSSEE FL 32308
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA Alcohol + Drug Abuse Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

SB 274 – INMATE REENTRY BILL

12-9-13

BY SEN. DAVID SIMMONS

This good bill does two things:

- It will insure, for the first time, that Florida inmates will leave prison with an official state ID Card or a certified copy of their birth certificate and their Social Security card
- It will encourage the Department of Corrections (DOC) to increase the number of Faith-based prison institutions in the state versus prison dormitories

This will allow for these potential results:

- Ex-felons with an ID card will have a better chance of finding a job and housing upon reentering society and importantly they will be able to get a medical prescription re-filled (*especially important for inmates with mental health issues*)
- DOC statistics show that Faith-based prisons and dormitories have significantly less Disciplinary Reports (DR's) than other prisons

DR Rate per 1000 inmate's comparison for Faith-based and Non-Faith-based dormitories at the same prison:

<u>Tomoka C.I.</u>	Faith-based DR's	111
	Non-Faith-based DR's	343
<u>Gulf Annex</u>	Faith-based DR's	101
	Non-Faith-based DR's	164
<u>Polk C.I.</u>	Faith-based DR's	96
	Non-Faith-based DR's	221

Source: DOC Secretary Michael Crews written testimony to House Judiciary Committee on March 7, 2013

A job and housing for ex-felons will mean fewer crimes committed and fewer re-offenders...of 32,555 inmates entering prison in FY 2012-13, 14,000 or 43% are re-offenders at a cost of \$255,018,897 annually to Florida taxpayers

For more information, please contact:

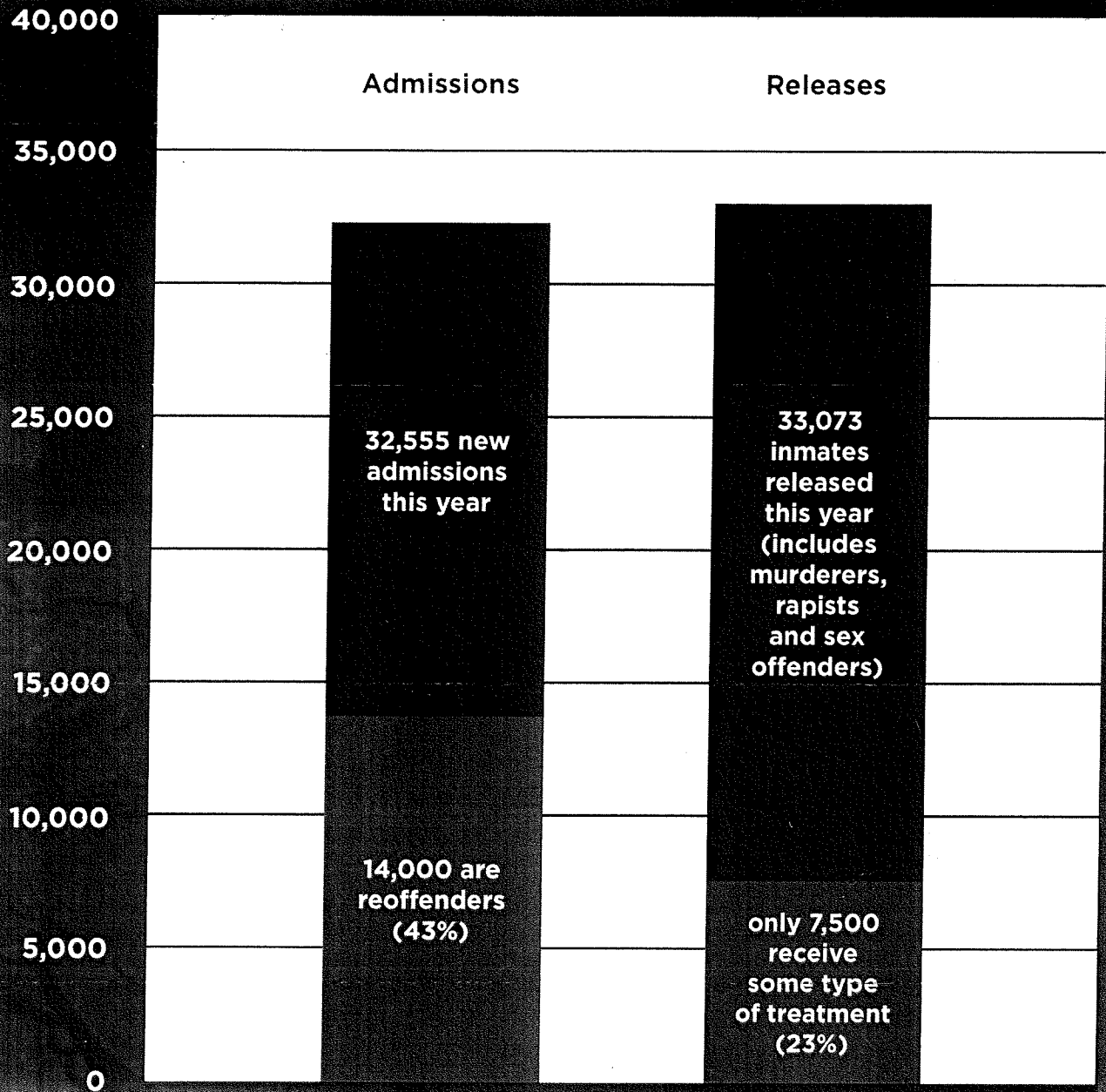
Barney Bishop III	850-510-9922	<u>Barney@BarneyBishop.com</u>
Lori Brown	407-342-6095	<u>LBrown@BridgesOfAmerica.org</u>
Kristopher Browning	813-713-1936	<u>KBrowning@BridgesOfAmerica.org</u>
Chris Carmody	352-514-2196	<u>Chris.Carmody@Gray-Robinson.com</u>
Jim DeBeaugrine	850-508-8908	<u>JDeBeaugrine@PenningtonLaw.com</u>
Fred Leonhardt	407-451-4100	<u>Fred.Leonhardt@Gray-Robinson.com</u>
Robert Stuart, Jr.	321-217-6207	<u>Robert.Stuart@Gray-Robinson.com</u>

SB 274 – Inmate Re-entry Bill

Fast Facts:

- There are about **101,600** inmates in Florida Prisons
- According to DOC statistics, **23% of them receive some kind of services:** education, vocation, substance abuse or mental health issues
- That means that **77% of all inmates receive no services** whatsoever from DOC
- Inmates **need a state-issued Identification Card in order to apply for a job, for housing and to get any prescriptions re-filled;** without an ID card, none of these is possible
- **53% of all Florida prison inmates are Florida-born;** 47% are non-Floridians
- **Many inmates have difficulty obtaining a Certified Copy of their Birth Certificate** (which is required to get a state-issued ID card) because (1) they may not know their Father's name, (2) they may not know their Mother's full or legal name, (3) they may not know exactly where they were born
- **Florida DOC has a MOU with the Department of Highway Safety & Motor Vehicles (DHSMV)** for a flat fee to obtain a Certified Copy of an inmate's Birth Certificate
- **DHSMV has a van that routinely goes to Florida prisons** and if the inmate already has a Certified Copy of their Birth Certificate and a Social Security Card then the van can issue the state ID card; if not, then the inmate can take the Birth Certificate and Social Security card to the County and they will issue the state ID card
- **The only service providers who currently do Re-entry services are Non-Profit Providers**
- **DOC provides the Recidivism Rate numbers for both DOC-operated and Non-Profit Provider-operated Re-entry programs**
- **Recidivism is based on whether an inmate returns to prison within three (3) years;** which doesn't mean that they haven't been re-arrested; they just haven't been convicted and sent back to prison; so the Recidivism Rate is a relative term
- **The recidivism rate for Non-Profit providers collectively is 18%** which means that 82% of inmates do not return to prison within three (3) years

REVOLVING PRISON DOORS



Criminal Justice Estimating Conference, November 2012, for FY 2012-13

"87% OF INMATES HOUSED IN FLORIDA PRISONS TODAY WILL ONE DAY BE RELEASED BACK INTO OUR COMMUNITIES" - FLORIDA DOC, 2/4/13



ALMOST HALF OF ALL ADMISSIONS ARE FOR NON-VIOLENT OFFENSES

PRIMARY OFFENSE OF FLORIDA PRISON COMMITMENTS FY 2011-12		
Non-violent (excluding burglary and weapons)	# of inmates	% of total
Property theft/fraud/damage	4,722	15.05%
Drugs	7,773	24.78%
Non-violent - other	2,547	8.12%
Subtotal Non-violent	15,042	47.95%
Violent Offenses		
Murder/manslaughter	1,035	3.30%
Sexual/Lewd Behavior	1,698	5.41%
Robbery	2,332	7.43%
Violent - other	4,356	13.88%
Subtotal Violent	9,421	30.03%
Weapons	1,406	4.48%
Burglary	5,504	17.54%
Total	31,373	100.00%

Source: "Criminal Justice Trends," 11/19/12 - provided to Florida Criminal Justice Estimating Conference

TOP 5 REASONS FOR COMMITMENT

1. Drugs*	24.8%
2. Burglary	17.5%
3. Property theft/fraud/damage*	15.1%
4. Violent - other	13.9%
5. Non-violent - other*	8.1%

* 3 of top 5 = non-violent



A SNAPSHOT:

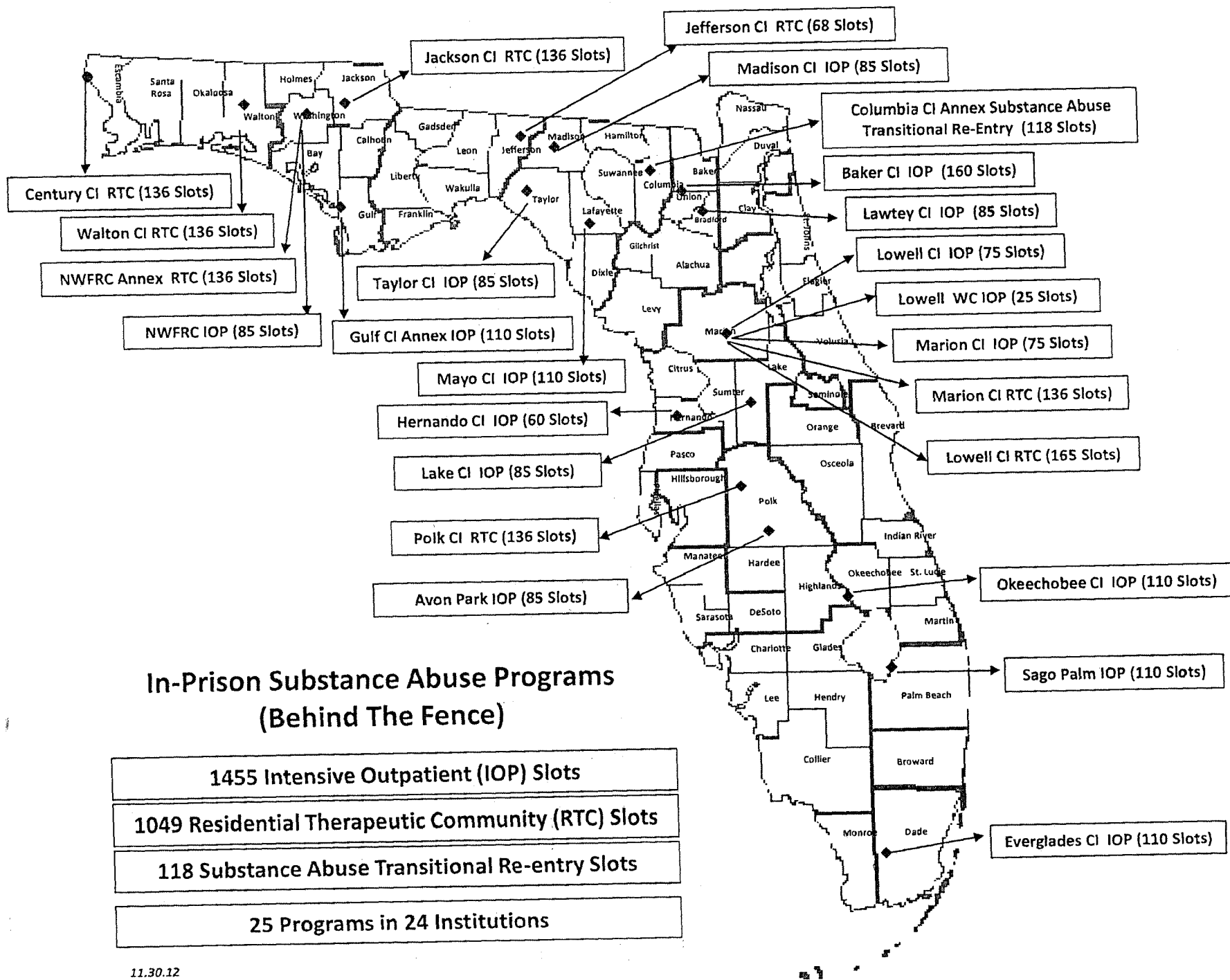
64% of new inmates entering Florida prisons in 2011-12 were sentenced for less than 39 months.

73% were sentenced for less than 5 years.

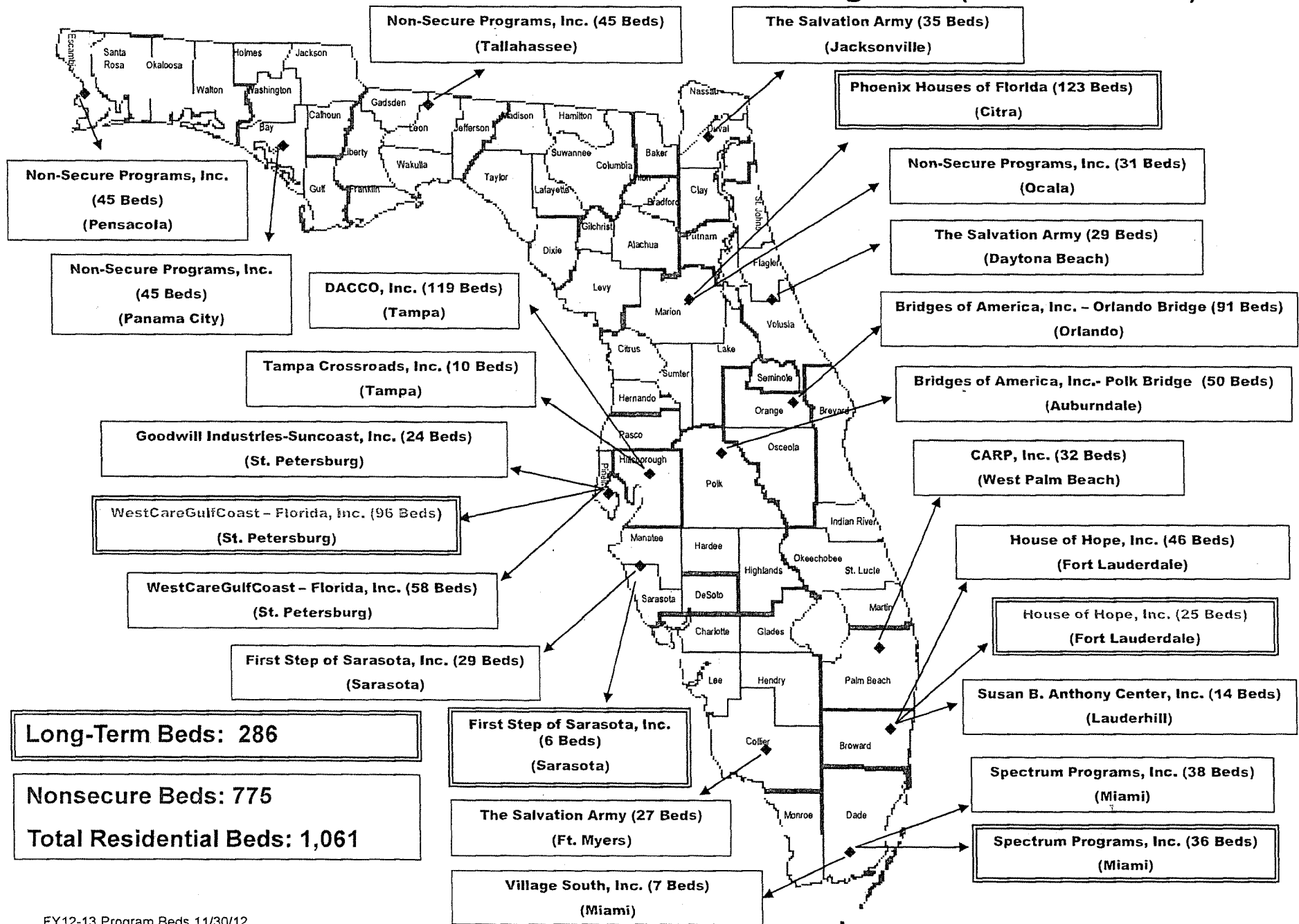
FLORIDA SENTENCE LENGTH DISTRIBUTION - FY 2011-12			
Sentence length	# of inmates	Cumulative	Cumulative %
Year and a day	2,281	2,281	7.27%
367 days to 15 months	3,179	5,460	17.40%
16 - 21 months	4,541	10,001	31.88%
22 - 27 months	4,158	14,159	45.13%
28 - 33 months	2,021	16,180	51.57%
34 - 39 months	3,787	19,967	63.64%
40 - 45 months	986	20,953	66.79%
46 - 51 months	1,612	22,565	71.92%
52 - 57 months	422	22,987	73.27%
58 - 78 months	2,924	25,911	82.59%
79 - 102 months	1,182	27,093	86.36%
Greater than 102 months	4,280	31,373	100.00%
Total	31,373		

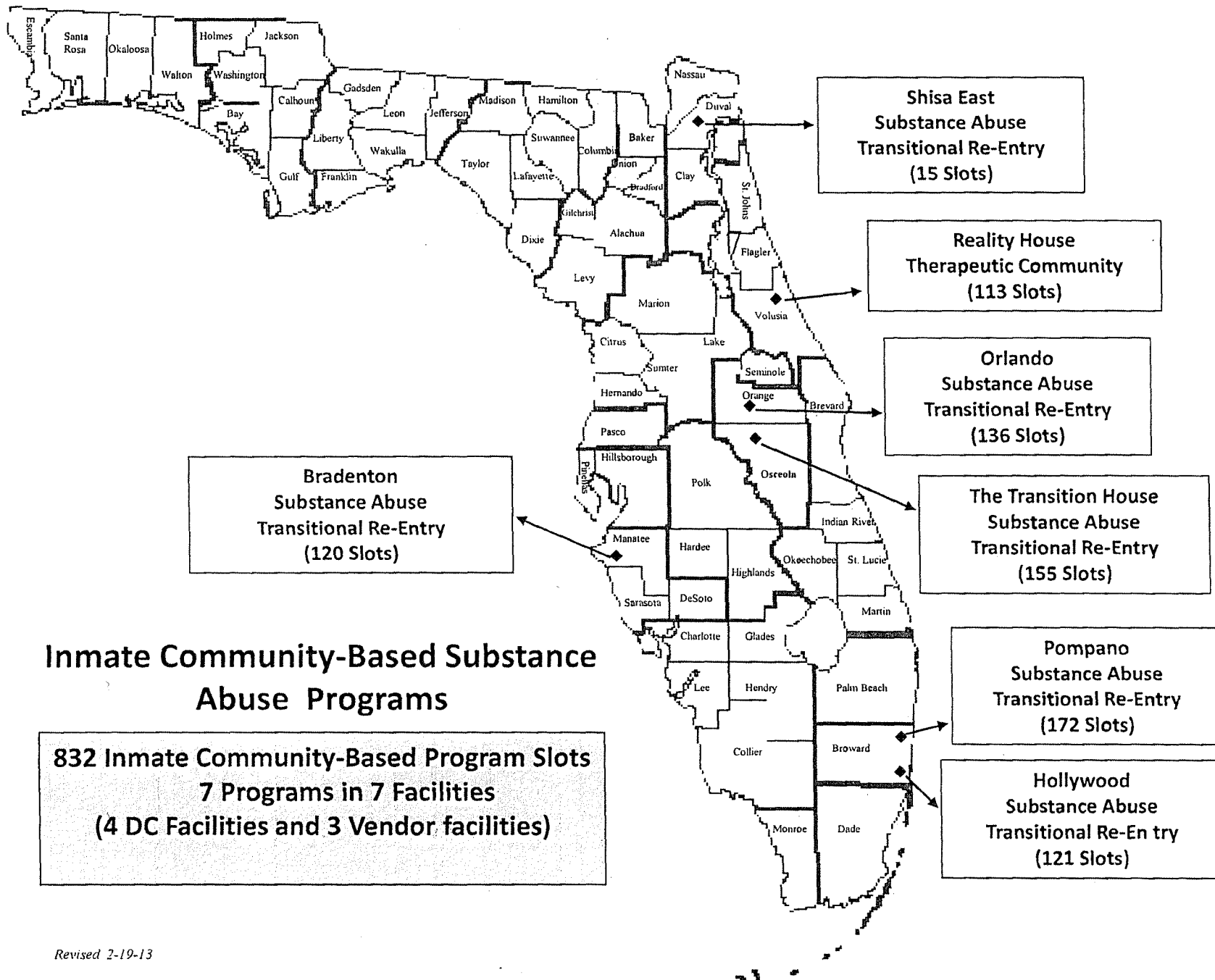
Source: "Criminal Justice Trends," 11/19/12 - provided to Florida Criminal Justice Estimating Conference





Residential Substance Abuse Treatment Programs (Funded Beds)





CourtSmart Tag Report

Room: LL 37

Caption: Senate Criminal Justice Committee

Case:

Judge:

Type:

Started: 12/9/2013 4:03:09 PM

Ends: 12/9/2013 4:20:48 PM

Length: 00:17:40

4:03:18 PM Meeting called to order
4:04:21 PM Tab 1- SB 182 (Sen. Stargel) Sexual Offenders
4:05:25 PM Roll Call on SB 182
4:05:45 PM Tab 2 - SB 256 (Sen. Garcia) Public Records/Forensic Behavioral Health Evaluation presented by David Marin
4:08:08 PM Roll call on SB 256
4:08:39 PM Tab 3 - SB 274 (Sen. Simmons) Inmate Reentry
4:09:57 PM Amendment barcode 335118
4:10:33 PM Senator Gibson question on the bill
4:11:43 PM Senator Simmons responds
4:13:18 PM Senator Gibson comments
4:13:48 PM Senator Evers responds to Sen. Gibson
4:14:26 PM Bob Dillinger, Florida Public Defender Association, Inc.
4:16:16 PM Barney Bishop, Florida Smart Justice Alliance
4:17:36 PM David Christian, Florida Chamber of Commerce
4:18:47 PM Move to CS and Senator Simmons to close
4:19:14 PM Roll call on CS/SB 274
4:19:34 PM Senator Dean recognized to be shown in the affirmative on SB 182 and SB 256
4:20:07 PM Closing remarks by Chair Evers
4:20:36 PM Move to Rise



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR CHRISTOPHER L. SMITH

Democratic Leader
31st District

COMMITTEES:

Criminal Justice, *Vice Chair*
Rules, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health
and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Governmental Oversight and Accountability

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

JOINT COMMITTEE:

Joint Legislative Budget Commission

December 10, 2013

Senator Greg Evers, Chair
Senate Committee on Criminal Justice
Suite 510 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Senator Evers

Please excuse Senator Christopher L. Smith from Senate Committee on Criminal Justice that was held on December 9, 2013 at 4:00 PM. The Senator was on the phone dealing with an important issue in the District, and the issue took longer than expected to resolve.

Thank you in advance for your consideration

Sincerely

A handwritten signature in cursive script, reading "Diane Randolph".

Diane Randolph
Legislative Assistant to
Leader Chris Smith
District 31

Cc: Sue Arnold

REPLY TO:

- ☐ 2151 NW 6th Street, Fort Lauderdale, Florida 33311 (954) 321-2705 FAX: (954) 321-2707
- ☐ 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore